FILING FEE PAID
Yes____ No____
IFP MOTION FILED
Yes____ No____
COPIES SENT TO
Court____ ProSe____

FILED
JAN 0 8 2013
CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY DEPUTY

Luis Zaragoza
12586936
446 Alta Road, Suite 5300
San Diego, CA 92158

United States District Court
Southern District of California

Luis Raymond Zaragoza, Plaintiff,	No. 13CV0054 GPC NLS Supplied by Clerk
v.	Complaint And Demand For Jury Trial
Walmart Corporation, Zachary Straus, Andres Naughten, Pilar Leal, Does 1-50, Defendants.	1. Assault And Battery 2. Intentional Tort 3. General Negligence 4. Professional Negligence

1. This Court has jurisdiction in this case pursuant to Diversity of Citizenship under Title 28 United States Code section 1332. The Plaintiff also invokes federal question jurisdiction under Title 28 United States Code section 1331.

2. The Plaintiff in this case is a resident of San Diego, California.

3. The defendant, Walmart Corporation, is a resident of Bentonville, Arkansas. Walmart Corporation is the main actor responsible for the severe injuries sustained by the Plaintiff. The other named defendants are employees of Walmart Corporation and they may reside in San Diego, California.

4. The Plaintiff seeks damages for hospital bills, pain and suffering, wage loss, general damages.

special damages, loss of earning capacity, physical injury, mental anguish and emotional distress. The amount of compensatory and punitive damages sought by the Plaintiff is $120,050,000 which is in excess of the $75,000 required to invoke this Court's jurisdiction under Diversity of Citizenship.

Count 1: The Plaintiff Alleges The Defendants Committed Assault And Battery On Him

1. On December 7, 2012, the Plaintiff entered defendant, Walmart Corporation, in National City, California located at Plaza Blvd and Highland Avenue. Defendant Walmart Corporation's parent company is located in Bentonville, Arkansas. The Plaintiff entered the store with $43.00 in cash in his pocket.

2. The Plaintiff picked up a Furbby Toy and a Lap Top Charger with a total value of less than $100.00! The Plaintiff had placed the items allegedly on his person and walked to the defendant's garden center.

3. While allegedly attempting to exit the store through the garden center, the Plaintiff was stopped by a shopping cart by one of the named defendants who worked for Walmart Corporation loss prevention.

4. At the garden center exit, the Plaintiff was assaulted by defendants Walmart Corporation, Zachary Straus, Andres Naughten, Pilar Leal, and other unknown Doe employees. None of the defendants identified themselves as loss prevention employees or explained what the Plaintiff had or was doing wrong. Defendant Straus, by and through defendant Walmart Corporation, began to immediately attack the Plaintiff and commit assault and battery on the Plaintiff while defendant Naughten, by and through defendant Walmart Corporation, began choking the Plaintiff unconscience. The Plaintiff

was coming in and out of consciousness while being choked out by the defendants.

5. Defendant Straus, by and through defendant, Walmart Corporation, began punching the Plaintiff with a closed fist in his body and head after the Plaintiff was down on the ground unconscience with his hands at his side. Once the Plaintiff regained conscienceness he realized he was being beaten by Walmart Corporation and its employees so the Plaintiff put his hands behind his back to be handcuffed.

6. During the time the Plaintiff was forced to the floor by the defendants, the Plaintiff hit his head causing a severe injury and permanent brain damage which caused the Plaintiff to lose conscience. Defendant Straus and approximately six other Doe defendants continued to choke the Plaintiff, and punch the Plaintiff with a closed fist in the head and rib area. The Plaintiff was in no way resisting and was subdued with his hands behind his back in the handcuff position.

7. John Doe, the Walmart Corporation store manager came to the scene where the loss prevention and other employees were committing the assault and battery on the Plaintiff and told the assailants to "lay off" the Plaintiff because they were using too much force.

8. The National City Police Department was called. The police officer called the paramedics who took the Plaintiff to the University of California San Diego Medical center ("UCSD") for treatment for his severe injuries caused by the defendants. The Plaintiff spent 24 hours in the UCSD hospital costing the Plaintiff $26,956.24 to treat his injuries. (See attached evidence)

9. The defendants in this case are guilty of committing an assault and battery on the Plaintiff.

Count 2: The Plaintiff Alleges The Defendants Are Guilty Of Intentional Affliction Of Emotional Distress

1. The Plaintiff realleges and incorporates by reference paragraphs 1-9 in Count 1.

Count 3: The Plaintiff Alleges The Defendants Are Guilty Of General Negligence

1. The Plaintiff realleges and incorporates by reference paragraphs 1-9 in Count 1.

Count 4: The Plaintiff Alleges The Defendants Are Guilty Of Negligent Affliction Of Emotional Distress

1. The Plaintiff realleges and incorporates by reference paragraphs 1-9 in Count 1.

Count 5: The Plaintiff Alleges The Defendants Are Guilty Of Professional Negligence

1. The Plaintiff realleges and incorporates by reference paragraphs 1-9 in Count 1.

5. The Plaintiff in this case is not required to comply with a claims statute as none of the named defendants are employees of the state or federal government.

6. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

a. Compensatory damages in the amount of $50,000 to cover past and future medical expenses;

b. Punitive damages in the amount of: $20,000,000;

c. Reasonable Attorney fees;

d. Any other Relief this Court deems just and proper.

7. The Plaintiff demands a trial by jury on all matters triable.

8. The Plaintiff respectfully requests a district judge to decide all dispositive matters in this case.

Respectfully Submitted,

1 6 13
(Dated)

[signature]
Luis Raymond Zaragoza

I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.
Executed the 6th day of January 2013 in San Diego, California.

[signature]
Luis Raymond Zaragoza

999-26360065-5050 - 054973962 CBB1 934
PO BOX 19785 (©)
IRVINE CA 92623-9785

UC San Diego
HEALTH SYSTEM

12/21/12

For Inquiries Call: (800) 755-1533

Pay Online At: www.PayUCSD.com
Pay By Telephone: (866) 998 - 4005

ZARAGOZA, LUIS
1173 FRONT ST
SAN DIEGO, CA 92101-3904

PATIENT IDENTIFIER	STATEMENT BALANCE
999-26360065	$25,990.24

Para obtener ayuda en Espanol, favor de llamar al (800) 755-1533.

PATIENT HOSPITAL BILL FOR SERVICES

Thank you for choosing **UC San Diego Health System** for your medical care. We look forward to the opportunity to serve you in the future. The records indicate that the balance as shown is now due and payable. If you feel there are any discrepancies in the above, please call our office.

Thank you!

SERVICE DETAIL ENCLOSED

Detach And Return With Payment

WRITE THIS PATIENT IDENTIFIER ON YOUR CHECK	MINIMUM AMOUNT DUE	TOTAL AMOUNT DUE
999-26360065	$25,990.24	$25,990.24
PATIENT NAME ZARAGOZA, LUIS		
CREDIT CARD USED FOR PAYMENT	☐ MASTERCARD ☐ VISA	☐ DISCOVER
CARD NUMBER		EXP. DATE ____/____
CARDHOLDER NAME		
SIGNATURE		AMOUNT PAID $

▼ MAKE CHECKS PAYABLE TO ▼

MEDICAL BILLING SERVICES
PO BOX 5010
MONROVIA, CA 91017-7110

Pay Online At: www.PayUCSD.com
Pay By Telephone: (866) 998 - 4005

026360065000025990245

PATIENT NAME: ZARAGOZA, LUIS PATIENT IDENTIFIER: 999-26360065

UC SAN DIEGO HEALTH SYSTEM

****Statement Cycle Descriptions**		
1 – First notice	**3** – Last notice: Will not appear on the next statement. If not paid, discount will be reversed and account will be sent to collections	**P** – A payment arrangement has been setup for the patient balance. The Statement Cycle description includes the current payment installment and the total number of months. Example: The third payment due on a 4 payment cycle is reflected as 3P of 4P. Any unpaid balance would be due in full.
2 – Second notice	**PAID** – Patient balance is paid in full, thank you.	

Minimum Patient Balance Due is the amount the patient owes after all applicable discounts have been applied. Failure to pay the amount will result in the reversal of all discounts, which may cause the patient balance to increase. Please be sure to have your statement with you when you call or pay online. Payments posted upon receipt and may take up to 7 business days to reflect on the statement. Please disregard this notice if you have paid the above listed services within the last 7 days. If you would like additional detail for the accounts summarized below, please contact us by phone: (800) 755-1533 or through our website: www.payucsd.com and request an ITEMIZED BILL.

All info below is current as of statement date.

Dates for Services On or During	Type of Service(s)	Coverage / Insurance on File for Services (1) Primary, (2) Secondary	Hospital Account Reference	Insurance Payment Received as of Statement Date	Discounts / Insurance Adjustments Applied as of Statement Date	Summary of Patient Payments Received & Applied as of Statement Date	Total Outstanding Patient Balance as of Statement Date	Minimum Patient Balance Due	Statement Cycle **
07-Dec-12 to 08-Dec-12	Hospital Admission	(1)Xunk~	72891831-00	0.00	0.00	0.00	25990.24	25990.24	1

25,990.24 25,990.24

930725 934-Pg2

UC San Diego
MEDICAL GROUP

PO Box 232410, San Diego, CA 92123-2410

PATIENT: ZARAGOZA,LUIS RAYMOND STATEMENT DATE: 12/22/12

MAKE CHECKS PAYABLE TO: UCSD MEDICAL GROUP

☐ VISA ☐ MasterCard ☐ DISCOVER ☐ American Express

CARD # ______________________

EXP DATE ________ SIGNATURE ______________________

PAY THIS STATEMENT ONLINE AT medgroupbillpay.ucsd.edu

ACCT #	PAY BY	AMOUNT DUE	AMOUNT ENCLOSED
2636006	01/12/13	$966.00	$

☐ YOUR CURRENT INSURANCE IS LISTED BELOW. CHECK THIS BOX IF YOUR ADDRESS OR INSURANCE HAS CHANGED AND MAKE CHANGES ON REVERSE SIDE.
1. NO INSURANCE ON FILE
2.

LUIS RAYMOND ZARAGOZA
1173 FRONT ST
SAN DIEGO, CA 92101-3904

873 1 AV 0.350 AMECH

REMIT PAYMENT TO:

UCSD MEDICAL GROUP
FILE NUMBER 54332
LOS ANGELES, CA 90074-4332

030197519320121222000096600O

Billing Questions? Call our Customer Service department at 619-543-3000 or toll free at 888-543-0999.

Please detach top portion and return with your payment

STATEMENT OF PHYSICIAN SERVICES

(AS OF DECEMBER 22, 2012)

ACCOUNT # 2636006 - LUIS RAYMOND ZARAGOZA

PAGE 1

INVOICE NUMBER: 19624488
CHARGES

PROVIDER: MARY OBOYLE MD
RADIOLOGY

12/07/12 PF ECHO ABDOMINAL LIMITED	$152.00
TOTAL:	$152.00

PAYMENT ACTIVITY

12/07/12 TOTAL CHARGES	$152.00
AMOUNT DUE NOW	$152.00

INVOICE NUMBER: 19624489
CHARGES

PROVIDER: BRADY K HUANG MD
RADIOLOGY

12/07/12 PF XRAY SPINE THORACIC AP AND LAT	$56.00
12/07/12 PF XRAY SPINE LUMB AP AND LAT	$56.00
12/07/12 PF XRAY PELVIS AP ONLY	$43.00
TOTAL:	$155.00

PAYMENT ACTIVITY

12/07/12 TOTAL CHARGES	$155.00
AMOUNT DUE NOW	$155.00

INVOICE NUMBER: 19624490
CHARGES

PROVIDER: CHRISTINA LEE MD
RADIOLOGY

12/07/12 PF CT HEAD BRAIN WO CONTRAST	$219.00
12/07/12 PF CT CERVICAL WITHOUT CONTRAST	$298.00
TOTAL:	$517.00

PAYMENT ACTIVITY

12/07/12 TOTAL CHARGES	$517.00
AMOUNT DUE NOW	$517.00

INVOICE NUMBER: 19624491
CHARGES

PROVIDER: MICHAEL Y IM MD
RADIOLOGY

12/08/12 PF XRAY FEMUR AP AND LAT	$43.00
12/08/12 PF XRAY HIP UNILAT CMPLT MINIMUM 2VWS	$54.00
TOTAL:	$97.00

PAYMENT ACTIVITY

12/08/12 TOTAL CHARGES	$97.00
AMOUNT DUE NOW	$97.00

CONTINUED ON REVERSE SIDE ...

Payment Policy

Paying Your Bill: To ensure that we credit your account properly, tear off the top portion of your bill and mail it in the envelope provided. If paying by check, please write your account number on your check. For your convenience we accept cash, checks and all major credit cards for payment. Payment is due upon receipt of this bill.

Can't Pay a Bill? *We Can Help.* Please tell us if you cannot pay your bill in full and let us help you. Monthly payment plans and other financial assistance programs are available for those patients that meet certain financial criteria.

Have Your Statement on Hand: To help us answer your questions, have a copy of your statement, insurance card, and any additional information available. Please note that call volumes are heaviest on Wednesdays and Thursdays, which may result in longer than average wait times.

Guarantor Address Changes

Name		Home Phone #
Mailing Address		
City	State	Zip Code

Insurance Changes

☐ Primary Insurance ☐ Secondary Insurance

Insurance Company		Insurance Phone #	
Subscriber Name		Subscriber Date of Birth	
ID Number	Group/Plan #	Effective Date	
Mailing Address for Claims			
City		State	Zip Code

If you received services at a hospital out-patient clinic, you may also receive a separate bill from UCSD Medical Center. The most common reason for receiving an additional bill would be for labs, radiology, or outpatient services and inpatient stays.

STATEMENT OF PHYSICIAN SERVICES

(AS OF DECEMBER 22, 2012)

ACCOUNT # 2636006 - LUIS RAYMOND ZARAGOZA

PAGE 2

INVOICE NUMBER: 19624492

CHARGES

PROVIDER: JOHN W RENNER MD
RADIOLOGY

12/07/12 PF XRAY CHEST SINGLE VIEW $45.00
TOTAL: $45.00

PAYMENT ACTIVITY

12/07/12 TOTAL CHARGES $45.00
AMOUNT DUE NOW........................ $45.00

WE WOULD APPRECIATE PROMPT PAYMENT OF THE CURRENT AMOUNT DUE.

ACCOUNT BALANCE	AMOUNT PENDING WITH INSURANCE	AMOUNT DUE BY 01/12/13
$966.00	$0.00	$966.00

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS Luis Raymond Zaragoza

DEFENDANTS Walmart Corporation, et al.,

(b) County of Residence of First Listed Plaintiff San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Bentonville
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)
Luis Zaragoza 446 Alta Rd Ste 5300 #12586936 San Diego, CA 92158

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) (For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☒ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☒ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☒ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury

PERSONAL INJURY
- ☐ 362 Personal Injury - Med. Malpractice
- ☐ 365 Personal Injury - Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 444 Welfare
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 440 Other Civil Rights

PRISONER PETITIONS
- ☐ 510 Motions to Vacate Sentence
- Habeas Corpus:
- ☐ 530 General
- ☐ 535 Death Penalty
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- ☐ 620 Other Food & Drug
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 630 Liquor Laws
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- ☐ 650 Airline Regs.
- ☐ 660 Occupational Safety/Health
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- ☐ 710 Fair Labor Standards Act
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- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

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- ☐ 462 Naturalization Application
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- ☐ 465 Other Immigration Actions

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FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 400 State Reapportionment
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- ☐ 430 Banks and Banking
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VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. Section 1332

Brief description of cause: Plaintiff assaulted by the defendant and its employees

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND $ 20,050,000

CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE ______ DOCKET NUMBER ______

DATE ______ SIGNATURE OF ATTORNEY OF RECORD ______

FOR OFFICE USE ONLY

RECEIPT # ______ AMOUNT ______ APPLYING IFP ______ JUDGE ______ MAG. JUDGE ______

Luis Zarragoza
12586936
446 Alta Road, Suite 5300
San Diego, CA 92158

Re: Complaint and Jury Trial Demand

Dear Clerk:
Please find enclosed for filing:

(1) Motion To Proceed In Forma Pauperis.

(2) Complaint and Jury Trial Demand Under Diversity of Citizenship Jurisdiction. There are medical bill attached to the Complaint as evidence.

I am in custody of the San Diego Sheriff and do not have access to a photocopier. The Sheriff refuses to make copies of my legal documents. Can you please return a filed stamped copy back to me for my records?
Thank you for your time.

Respectfully,
[signature]

JS 44 (Rev. 12/07)

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(EXCEPT IN U.S. PLAINTIFF CASES)

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Luis Raymond Zaragoza
446 Alta Rd. Ste. 5300
San Diego CA 92158
12586936

Attorneys (If Known)

[Stamp:] 2254 1983 FILING FEE PAID Yes ___ No ___ IFP MOTION FILED Yes ___ No ___ COPIES SENT TO Court ProSe

[Stamp:] FILED JAN 0 8 2013 CLERK US DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA BY DEPUTY

13CV0054 GPC NLS

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42:1983
Brief description of cause:
Prisoner Civil rights

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☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND $
CHECK YES only if demanded in complaint:
JURY DEMAND: x Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE ______ DOCKET NUMBER ______

DATE
1/08/13

~~SIGNATURE OF ATTORNEY OF RECORD~~
SKHoestenbach [signature]

FOR OFFICE USE ONLY

RECEIPT # ______ AMOUNT ______ APPLYING IFP ______ JUDGE ______ MAG. JUDGE ______

Luis Zaragoza
12586936
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